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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PATRICK LA PENNA,)
PERSONAL REPRESENTATIVE OF)
THE ESTATE OF BARABRA LA) CASE NO. _____
PENNA, DECEASED,)
)
Plaintiff,)
v.)
)
NOTICE OF REMOVAL
SUN PHARMACEUTICAL)
INDUSTRIES INC.)
and)
CARACO PHARMACEUTICAL)
LABORATORIES, LTD.,)
)
Defendants.)

Defendant Caraco Pharmaceutical Laboratories, Ltd. ("Caraco") hereby removes this action from the Superior Court of New Jersey, Law Division, Middlesex County pursuant to 28 U.S.C. § 1441(a). In support, Caraco states:

1. Plaintiff lodged his Complaint, styled *Patrick La Penna v. Sun Pharmaceutical Industries Inc. and Caraco Pharmaceutical Laboratories, Ltd.*, Docket No. L-2375-10, in the Superior Court of New Jersey, Law Division, Middlesex County. (A copy of the Complaint together with all other process, pleadings, and orders served on defendants is attached as Exhibit A.)
2. Defendant Sun Pharmaceutical Industries Inc. ("Sun") was served on August 13, 2010.
3. Defendant Caraco was served on August 18, 2010.
4. This removal is timely under 28 U.S.C. § 1446(b).
5. Plaintiff and his decedent are and at all relevant times were citizens of Ohio. Complaint at ¶¶ 1-2.
6. Defendant Caraco is organized under the laws of and has its principal place of business in Michigan.
7. Defendant Sun was fraudulently joined. Its citizenship must be disregarded in assessing diversity. *E.g., In re Briscoe*, 448 F.3d 201, 216 (3d Cir. 2006).
8. There is complete diversity of citizenship between plaintiff and Caraco under 28 U.S.C. § 1332(a)(1).
9. The amount in controversy exceeds \$75,000, exclusive of interest and costs. This is a wrongful death product liability action. Plaintiff alleges his decedent experienced "serious physical injury, pain and suffering, [] loss of family and social relationships" and ultimately death. Complaint, ¶¶ 37-38. Plaintiff further alleges he "had and will continue to have, great physical pain and suffering, and great mental and emotional suffering, some or all of which may be permanent.... Plaintiff was obligated to spend

various sums of money to treat, evaluate and care for his wife's injuries and other costs associated with her death, Plaintiff has sustained a loss of earnings and earning capacity; Plaintiffs' enjoyment of life is impaired; Plaintiff is embarrassed and humiliated; all to Plaintiff's great loss." Complaint at ¶ 58. He demands compensatory damages and restitution for the costs of the mediation at issue. Complaint, Prayer for Relief. Notably, he also explicitly demands "exemplary and punitive damages in an amount in excess of the jurisdictional limits, trebled on all applicable Counts." Complaint, Prayer for Relief (emphasis added).

10. Defendant Sun consents to removal of this action (attached as Exhibit B).

Respectfully submitted,

Dated: September 10, 2010

By: /s/ Beth S. Rose

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of Caraco Pharmaceutical Laboratories, Ltd.'s Notice of Removal and Rule 7.1 Disclosure Statement was served via Federal Express on September 10, 2010, upon:

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Attorneys for Plaintiff

/s/ Beth S. Rose

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